

**MONTANA WETLANDS LEGACY PROJECTS  
CONTRACT NUMBER: SPB04-878P-F**

**1. PARTIES**

THIS CONTRACT, is entered into by and between the State of Montana Department of Administration, State Procurement Bureau (hereinafter referred to as "the State"), whose address and phone number are Room 165 Mitchell Building, 125 North Roberts St., PO Box 200135, Helena MT 59620-0135, (406) 444-2575 and **PBS&J**, (hereinafter referred to as the "Contractor"), whose nine digit Federal ID Number, address and phone number are 59-0896138, 1120 Cedar, Missoula MT 59802, and (406) 495-1377.

**THE PARTIES AGREE AS FOLLOWS:**

**2. EFFECTIVE DATE, DURATION, AND RENEWAL**

**2.1 Contract Term.** This contract shall take effect upon full execution of all signatory parties, and terminate on June 30, 2008, unless terminated earlier in accordance with the terms of this contract. (Mont. Code Ann. § 18-4-313.)

**2.2 Contract Renewal.** This contract may, upon mutual agreement between the parties and according to the terms of the existing contract, be renewed in one-year intervals, or any interval that is advantageous to the State, for a period not to exceed a total of three additional years. This renewal is dependent upon legislative appropriations.

**3. NON-EXCLUSIVE CONTRACT**

The intent of this contract is to provide state agencies with an expedited means of procuring supplies and/or services. This contract is for the convenience of state agencies and is considered by the State Procurement Bureau to be a "Non-exclusive" use contract. Therefore, agencies may obtain this product/service from sources other than the contract holder(s) as long as they comply with Title 18, MCA, and their delegation agreement. The State Procurement Bureau does not guarantee any usage.

**4. COOPERATIVE PURCHASING**

Under Montana law, public procurement units, as defined in section 18-4-401, MCA, have the option of cooperatively purchasing with the State of Montana. Public procurement units are defined as local or state public procurement units of this or any other state, including an agency of the United States, or a tribal procurement unit. Unless the bidder/offeror objects, in writing, to the State Procurement Bureau prior to the award of this contract, the prices, terms, and conditions of this contract will be offered to these public procurement units.

**5. SERVICES AND/OR SUPPLIES**

Contractor agrees to provide the State with an expedited means of hiring qualified contractors to provide Wetland, Stream, and other Aquatic Resource restoration, enhancement, and development design and implementation for various projects around the State of Montana. This contract will be utilized primarily by FWP but other state agencies or public procurement units may utilize this contract in conjunction with wetland, stream, and other aquatic resource restoration, enhancement and development projects.

The Contractor may need to have access to engineering services depending on the nature of the project. The Contractor will be expected to use their own best judgment as to whether engineering services are needed for a given project. However, traditional engineering methodologies are not the emphasis of this contract. It is a violation of State Statute to practice engineering or land surveying without a license.

**5.1 Design Expectations.** FWP prefers stream restoration improvement techniques that simulate natural conditions and facilitate natural stream processes. The State is always open to new and innovative approaches that accomplish project goals providing these techniques have proven success.

**5.2 Contractor Responsibilities.** The selected contractor for an individual project is responsible for the supervision and implementation of the designs and is responsible for oversight of work performed by all subcontractors. In most cases the contractor will provide and be responsible for all the necessary equipment, materials, supplies and personnel necessary for proper execution of the work. However, the State reserves the right to hire subcontractors (equipment and/or labor) if it will provide a cost savings to the State. The selected contractor is also responsible for clean up of the sites and must have the sites inspected by the State immediately prior to completion.

**5.3 Permits.** The Contractor is responsible for obtaining all necessary permits for each project, including but not limited to 404 permits, 310 (streambank preservation) permits, other permits, SHPO clearance, and water rights.

**5.4 On-Site Requirements/Cleanup.** When a contractor is contacted by the State to discuss a project, the State and the contractor will visit the job site to become familiar with conditions relating to the project and labor requirements. The State and chosen contractor will then cooperatively develop project feasibility, conceptual design and cost.

The Contractor shall adequately protect the work, adjacent property, and the public in all phases of the work. The Contractor shall be responsible for all damages or injury due to their action or neglect.

The Contractor shall maintain access to all phases of the project pending inspection by the State or its representative.

All work rejected as unsatisfactory shall be corrected prior to final inspection and acceptance.

The Contractor shall respond within seven calendar days after notice of observed defects has been given and shall proceed to immediately remedy these defects. Should the Contractor fail to respond to the notice or not remedy the defects, the State may have the work corrected at the expense of the Contractor.

In terms of cleanup, the Contractor shall:

- (a) Keep the premises free from debris and accumulation of waste;
- (b) Clean up any oil or fuel spills;
- (c) Keep machinery clean and free of weeds;
- (d) Remove all construction smears and stains from finished surfaces;
- (e) Perform finishing site preparation to: (1) limit the spread of noxious weeds, and (2) smooth exposed ground surface to enhance aesthetics, provide silt-footing, and provide uniform bed for future revegetation work before final payment by the State;
- (f) Remove all construction equipment, tools and excess materials before final payment by the State; and
- (g) Install silt fences as necessary, prevent fall-back of excavated materials, and prevent any other potential violations of federal or state water protection laws during the period of construction.

**5.5 Work Acceptance.** The Contractor is responsible for project oversight as needed. The State may also periodically provide personnel for administrative oversight from the initiation of the contract through project completion. All work will be inspected by the State or designated liaison prior to approval of any contract payments. All work rejected as unsatisfactory shall be corrected prior to final inspection and acceptance. Contractor shall respond within seven calendar days after notice of defects has been given by the State and proceed to immediately remedy all defects.

**5.6 Records.** The Contractor will supply the State with photo documentation of methods of habitat restoration progress throughout project implementation. Contractor will maintain records for themselves and all subcontractors of supplies, materials, equipment and labor hours expended.

**5.7 Communication.** During a project the chosen contractor is required to make weekly contact with the State liaison, or other parties designated by the State for communications, to make arrangements for field inspections and project compliance. This communication must be made in person or by telephone conversation with designated liaisons. Voice mail recordings will not be considered communication unless approved by the State's project contact.

Remoteness of project sites may necessitate that the Contractor have some form of field communication such as a cellular phone. This communication is necessary to enable the State to respond to public concerns related to the project, accidents, inspections, or other project issues that require immediate feedback. Weekly communication will commence when the chosen contractor initiates project implementation.

**5.8 Project Monitoring and Reports to the Corps of Engineers.** The Contractor is responsible for monitoring their projects and reporting to the Corps of Engineers about the development of wetland and stream function resulting from the project. In this way, the Corps will know whether wetland credit for the project has been earned.

**5.9 Change of Staffing.** Since qualifications of personnel were key in determining which offeror's were selected to be on this term contract, a written notification to the State Agency requesting services of any contractor changes of key personnel must be made prior to entering into negotiations to perform any specific work scope. Contractor shall replace such employee(s) at its own expense with an employee of substantially equal abilities and qualifications without additional cost to the Agency. If these staffing changes cause the contractor to no longer meet the qualifications stated herein, that firm will be removed from the service area of this term contract. Failure to notify the State Agency of staffing changes could result in the contractor being removed from the term contract listing and possible suspension from bidding on other State projects.

**5.10 Collaboration on Potential Projects.** The State encourages collaboration between Contractors to increase the scope and effectiveness of services offered. All subcontractors to be used in any project must be approved by FWP or the authorized entity initiating the project.

## **6. PROJECT SELECTION**

The State will be responsible for identifying projects, contacting landowners and securing necessary permission/cooperation agreements, selecting a contractor, writing grant applications and approving project payments.

The State will not initiate projects where it is known that hazardous materials are present. If there is an indication of a potential of hazardous materials, then the State will do testing prior to contacting the Contractor. However, there is always the possibility of unforeseen problems resulting in the stoppage of a project.

The selected contractor will be required to meet with State personnel at the project site to conduct a site evaluation, discuss project issues and begin the negotiation process on project feasibility, conceptual design and costs for each project.

## **7. CONTRACTOR SELECTION**

The State may select a term contract holder from the Environmental Services Contract-Home page under MT Wetlands Legacy Projects as provided under the state's website address <http://www.discoveringmontana.com/doa/gsd/procurement/TermContracts/environservices/Default.asp>, taking into consideration such things as the contractor's expertise, requirements and location of the project, the contractor's availability and access to resources necessary to efficiently and effectively complete the project, demonstrated excellent past performance on State and public projects, identified subcontractors and total project cost.

**7.1 General.** Ordering agencies shall use the procedures in this section when ordering services priced at hourly rates as established by each Term Contract (TC).

**7.2 Request for Quotation (RFQ) procedures.** The ordering agency must provide an RFQ, which includes the statement of work and limited but specific evaluation criteria (e.g., experience and past performance), to all TC contractors. The RFQ may be posted to the agency's state website to expedite responses.

**7.3 Statement of Work (SOW's).** All SOW's shall include at a minimum a detailed description of the work to be performed; location of work; period of performance; deliverable schedule; applicable performance standards; and any special requirements (e.g., security clearances, travel, special knowledge).

- (1) Ordering agency may select a contractor from the appropriate list and directly negotiate a mutually acceptable project based on a sudden and unexpected happening or unforeseen occurrence or condition, which requires immediate action (Exigency).
- (2) Ordering agency may place orders at, or below the \$5,000 threshold with any term contract contractor that can meet the agency's needs. The ordering agency should attempt to distribute orders among all contractors.
- (3) For orders estimated to exceed \$5,000 but less than \$25,000.
  - (i) The ordering agency shall develop a statement of work.
  - (ii) The ordering agency shall provide the RFQ (including the statement of work and evaluation criteria) to at least three TC contractors.
  - (iii) The ordering agency shall request that contractors submit firm-fixed prices to perform the services identified in the statement of work.
- (4) For orders estimated to exceed \$25,000. In addition to meeting the requirements of 3 above, the ordering agency shall:
  - (i) Provide the RFQ (including the statement of work and the evaluation criteria) to all TC contractors .

**7.4 Evaluation.** The ordering agency shall evaluate all responses received using the evaluation criteria provided in the RFQ to each TC contractor. The ordering agency is responsible for considering the level of effort and the mix of labor proposed to perform a specific task being ordered, and for determining that the total price is reasonable. The agency will place the order with the contractor that represents the best value. After award, ordering agencies will provide timely notification to unsuccessful TC contractors. If an unsuccessful TC contractor requests information on a task order award that was based on factors other than price alone, a brief explanation of the basis for the award decision shall be provided.

- 7.5 Minimum documentation.** The ordering agency shall document:
- (1) The TC contractors considered, noting the contractor from which the service was purchased;
  - (2) A description of the service purchased;
  - (3) The amount paid;
  - (4) The evaluation methodology used in selecting the contractor to receive the order;
  - (5) The rationale for making the selection;
  - (6) Determination of price fair and reasonableness.

Agency project task orders will be utilized to finalize the project. Only written addenda will be used for adjustments of the task orders and must be signed by both parties. All task orders must contain signatures from both parties and appropriate agency legal review as directed in their procurement policy.

The State will monitor contractor selection by using the information provided in the annual term contract usage reports.

Contractor's who fail to respond to three (3) RFQ opportunities within a one-year period between July 1<sup>st</sup> and June 30<sup>th</sup>, may be removed from the qualified list of contractors.

## **8. CONSIDERATION/PAYMENT**

**8.1 Payment Schedule.** In consideration for the Montana Wetlands Legacy projects to be provided, the State shall pay according to the prices listed in Attachment B. Project budgets will be negotiated for each individual project. However, all rates, terms and conditions set forth in this term contract will be applied to individual contracts.

**8.2 Invoicing Methods.** The State reserves the right to choose the invoicing method from the following: (1) Prime contractor's billing will include the subcontractors charges and payment will be made to the prime; or (2) Prime and subcontractors will bill the State separately and the State will pay each directly.

**8.3 Withholding of Payment.** The State may withhold payments to the Contractor if the Contractor has not performed in accordance with this contract. Such withholding cannot be greater than the additional costs to the State caused by the lack of performance.

## **9. COST/PRICE ADJUSTMENTS**

**9.1 Price Increases Negotiated Based on Increases in Contractor's Costs.** Price increases may be permitted at the time of contract renewal through a process of negotiation with the Contractor and the State. Any price increases must be based on demonstrated industry-wide or regional increases in the Contractor's costs. Publications such as the Federal Bureau of Labor Statistics and the Consumer Price Index (CPI) for all Urban Consumers may be used to determine the increased value. Contractor must provide written, verifiable justification for any cost adjustments they request during each renewal period. Contractor shall provide its cost adjustments in both written and electronic format. Contractor must provided written, verifiable justification for any cost adjustments they request during each renewal period. Contractor shall provide its cost adjustments in both written and electronic format.

## **10. TERM CONTRACT REPORTING**

Term contract holder(s) shall furnish annual reports of term contract usage. Each report shall contain the project description, total dollars expended, and the name of the agency purchasing the services. The first report for this term contract will be due July 16, 2005.

Reported volumes and dollar totals may be checked by the State Procurement Bureau against State records for verification. Failure to provide timely or accurate reports is justification for cancellation of the contract and/or justification for removal from consideration for award of contracts by the State.

## **11. CONTRACTOR REGISTRATION**

The Contractor is required to be registered with the Department of Labor and Industry under sections 39-9-201 and 39-9-204, MCA, *prior* to contract execution. The State cannot execute a contract for construction to a Contractor who is not registered and may award the contract to the next responsive vendor if registration is not completed in a timely manner. (Mont. Code Ann. § 39-9-401.)

Contractor Registration Number: 53080

## **12. CONTRACTOR WITHHOLDING**

Section 15-50-206, MCA, requires the state agency or department for whom a public works construction contract over \$5,000 is being performed, to withhold 1 percent of all payments and to transmit such monies to the Department of Revenue.

### **13. MONTANA PREVAILING WAGE REQUIREMENTS**

Unless superseded by federal law, Montana law requires that contractors and subcontractors give preference to the employment of Montana residents for any public works contract in excess of \$25,000 for construction or nonconstruction services in accordance with sections 18-2-401 through 18-2-432, MCA, and all administrative rules adopted pursuant thereto. Unless superseded by federal law, at least 50% of the workers of each contractor engaged in construction services must be performed by bona fide Montana residents. The Commissioner of the Montana Department of Labor and Industry has established the resident requirements in accordance with sections 18-2-403 and 18-2-409, MCA. Any and all questions concerning prevailing wage and Montana resident issues should be directed to the Montana Department of Labor and Industry.

In addition, unless superseded by federal law, all employees working on a public works contract shall be paid prevailing wage rates in accordance with sections 18-2-401 through 18-2-432, MCA, and all administrative rules adopted pursuant thereto. Montana law requires that all public works contracts, as defined in section 18-2-401, MCA, in which the total cost of the contract is in excess of \$25,000, contain a provision stating for each job classification the standard prevailing wage rate, including fringe benefits, travel, per diem, and zone pay that the contractors, subcontractors, and employers shall pay during the public works contract.

Furthermore, section 18-2-406, MCA, requires that all contractors, subcontractors, and employers who are performing work or providing services under a public works contract post in a prominent and accessible site on the project staging area or work area, no later than the first day of work and continuing for the entire duration of the contract, a legible statement of all wages and fringe benefits to be paid to the employees in compliance with section 18-2-423, MCA. Section 18-2-423, MCA, requires that employees receiving an hourly wage must be paid on a weekly basis.

Each contractor, subcontractor, and employer must maintain payroll records in a manner readily capable of being certified for submission under section 18-2-423, MCA, for not less than three years after the contractor's, subcontractor's, or employer's completion of work on the public works contract.

The nature of the work performed or services provided under this contract meets the statutory definition of a "public works contract" under section 18-2-401(11)(a), MCA, and falls under the category of Heavy Construction and Nonconstruction services. The booklets containing Montana's 2003 Rates for Heavy Construction and Nonconstruction Services are attached.

The most current Montana Prevailing Wage Booklet will automatically be incorporated at time of renewal. It is the contractor's responsibility to ensure they are using the most current prevailing wages during performance of its covered work.

The most current Montana Prevailing Wage Booklet will automatically be incorporated at time of renewal. It is the contractor's responsibility to ensure they are using the most current prevailing wages.

### **14. ACCESS AND RETENTION OF RECORDS**

**14.1 Access to Records.** The Contractor agrees to provide the State, Legislative Auditor or their authorized agents access to any records necessary to determine contract compliance. (Mont. Code Ann. § 18-1-118.)

**14.2 Retention Period.** The Contractor agrees to create and retain records supporting the Montana Wetlands Legacy projects for a period of three years after either the completion date of this contract or the conclusion of any claim, litigation or exception relating to this contract taken by the State of Montana or a third party.

### **15. ASSIGNMENT, TRANSFER AND SUBCONTRACTING**

The Contractor shall not assign, transfer or subcontract any portion of this contract without the express written consent of the State. (Mont. Code Ann. § 18-4-141.) The Contractor shall be responsible to the State for the

acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by the Contractor. No contractual relationships exist between any subcontractor and the State.

## **16. HOLD HARMLESS/INDEMNIFICATION**

The Contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

## **17. REQUIRED INSURANCE**

**17.1 General Requirements.** The Contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

**17.2 Primary Insurance.** The Contractor's insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.

**17.3 Specific Requirements for Commercial General Liability.** The Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.

**17.4 Additional Insured Status.** The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds; for liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations; premises owned, leased, occupied, or used.

**17.5 Specific Requirements for Automobile Liability.** The Contractor shall purchase and maintain coverage with split limits of \$500,000 per person (personal injury), \$1,000,000 per accident occurrence (personal injury), and \$100,000 per accident occurrence (property damage), OR combined single limits of \$1,000,000 per occurrence to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.

**17.6 Additional Insured Status.** The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for automobiles leased, hired, or borrowed by the Contractor.

**17.7 Specific Requirements for Professional Liability.** The Contractor shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors. Note: if "occurrence" coverage is unavailable or cost prohibitive, the Contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of the contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

**17.8 Deductibles and Self-Insured Retentions.** Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, and volunteers; or (2) at the expense of the Contractor, the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

**17.9 Certificate of Insurance/Endorsements.** A certificate of insurance from insurer with a Best's rating of no less than A- indicating compliance with the required coverages has been received by the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times.

## **18. COMPLIANCE WITH THE WORKERS' COMPENSATION ACT**

Contractors are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with sections 39-71-120, 39-71-401, and 39-71-405, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither the contractor nor its employees are employees of the State. This insurance/exemption must be valid for the entire term of the contract. A renewal document must be sent to the State Procurement Bureau, upon expiration.

## **19. COMPLIANCE WITH LAWS**

The Contractor must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the Contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

## **20. INTELLECTUAL PROPERTY**

All patent and other legal rights in or to inventions created in whole or in part under this contract must be available to the State for royalty-free and nonexclusive licensing. Both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under this contract.

## **21. PATENT AND COPYRIGHT PROTECTION**

**21.1 Third Party Claim.** In the event of any claim by any third party against the State that the products furnished under this contract infringe upon or violate any patent or copyright, the State shall promptly notify Contractor. Contractor shall defend such claim, in the State's name or its own name, as appropriate, but at Contractor's expense. Contractor will indemnify the State against all costs, damages and attorney's fees that accrue as a result of such claim. If the State reasonably concludes that its interests are not being properly protected, or if principles of governmental or public law are involved, it may enter any action.

**21.2 Product Subject of Claim.** If any product furnished is likely to or does become the subject of a claim of infringement of a patent or copyright, then Contractor may, at its option, procure for the State the right to continue using the alleged infringing product, or modify the product so that it becomes non-infringing. If none of the above options can be accomplished, or if the use of such product by the State shall be prevented by injunction, the State will determine if the Contract has been breached.



## **22. CONTRACT TERMINATION**

**22.1 Termination for Cause with Notice to Cure Requirement.** The State may terminate this contract for failure of the Contractor to perform any of the services, duties, or conditions contained in this contract after giving the Contractor written notice of the stated failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 30 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

**22.2 Reduction of Funding.** The State, at its sole discretion, may terminate or reduce the scope of this contract if available funding is reduced for any reason. (See Mont. Code Ann. § 18-4-313(3).)

## **23. STATE PERSONNEL**

All project management and coordination on behalf of the State shall be through a single point of contact designated as the State's liaison. Contractor shall designate a liaison that will provide the single point of contact for management and coordination of Contractor's work. All work performed pursuant to this contract shall be coordinated between the State's liaison and the Contractor's liaison.

**23.1 State Contract Manager.** The State Contract Manager identified below will be the single point of contact for the coordination of all contract issues under this contract. The State Contract Manager will meet with the Contractor Contract Manager and/or others necessary to resolve any conflicts, disagreements, or other contract issues.

The State Contract Manager for this contract is:

Robert Oliver, Contracts Officer  
State Procurement Bureau  
Room 165, Mitchell Building  
125 North Roberts  
PO Box 200135  
Helena MT 59620-0135  
Telephone #: (406) 444-0110  
Fax #: (406) 444-2529  
E-mail: [ROliver@mt.gov](mailto:ROliver@mt.gov)

**23.2 State Project Manager.** The State Project Manager identified below will manage the day-to-day project activities on behalf of the State.

The State Project Manager for this contract is:

Tom Hinz, Coordinator  
Montana Wetlands Legacy  
1400 South Nineteenth  
Bozeman MT 59718  
Telephone #: (406) 994-7889  
Fax #: (406) 994-4090  
E-mail: [thin@montana.edu](mailto:thin@montana.edu)

## **24. CONTRACTOR PERSONNEL**

**24.1 Identification/Substitution of Personnel.** The personnel identified or described in the Contractor's proposal shall perform the services provided for the State under this contract. Contractor agrees that any personnel substituted during the term of the contract must be able to conduct the required work to industry standards and be equally or better qualified than the personnel originally assigned. The State reserves the right to approve Contractor personnel assigned to work under the contract, and any changes or

substitutions to such personnel. The State's approval of a substitution will not be unreasonably withheld. This approval or disapproval shall not relieve the Contractor to perform and be responsible for its obligations under this Contract. The State reserves the right to require Contractor personnel replacement. In the event that Contractor personnel become unavailable, it will be the Contractor's responsibility to provide an equally qualified replacement in time to avoid delays to the work plan.

**24.2 Contractor Contract Manager.** The Contractor Contract Manager identified below will be the single point of contact to the State Contract Manager and will assume responsibility for the coordination of all contract issues under this contract. The Contractor Contract Manager will meet with the State Contract Manager and/or others necessary to resolve any conflicts, disagreements, or other contract issues.

The Contractor Contract Manager for this contract is:

Paul Callahan  
1120 Cedar  
PO Box 8254  
Missoula MT 59802  
Telephone #: (406) 721-0354  
Cell Phone #: (406) 240-7799  
Fax #: (406) 721-0355  
E-mail: [paul.Callahan@landandwater.net](mailto:paul.Callahan@landandwater.net)

**24.3 Contractor Project Manager.** The Contractor Project Manager identified below will manage the day-to-day project activities on behalf of the Contractor:

The Contractor Project Manager for this contract is:

Paul Callahan  
1120 Cedar  
PO Box 8254  
Missoula MT 59802  
Telephone #: (406) 721-0354  
Cell Phone #: (406) 240-7799  
Fax #: (406) 721-0355  
E-mail: [paul.Callahan@landandwater.net](mailto:paul.Callahan@landandwater.net)

## **25. MEETINGS**

The Contractor is required to meet with the State's personnel, or designated representatives, to resolve technical or contractual problems that may occur during the term of the contract or to discuss the progress made by Contractor and the State in the performance of their respective obligations, at no additional cost to the State. Meetings will occur as problems arise and will be coordinated by the State. The Contractor will be given a minimum of three full working days notice of meeting date, time, and location. Face-to-face meetings are desired. However, at the Contractor's option and expense, a conference call meeting may be substituted. Consistent failure to participate in problem resolution meetings two consecutive missed or rescheduled meetings, or to make a good faith effort to resolve problems, may result in termination of the contract.

## **26. CONTRACTOR PERFORMANCE ASSESSMENTS**

The State may do assessments of the Contractor's performance. This contract may be terminated for one or more poor performance assessments. Contractors will have the opportunity to respond to poor performance assessments. The State will make any final decision to terminate this contract based on the assessment and any related information, the Contractor's response and the severity of any negative performance assessment. The Contractor will be notified with a justification of contract termination. Performance assessments may be considered in future solicitations.

**27. TRANSITION ASSISTANCE**

If this contract is not renewed at the end of this term, or is terminated prior to the completion of a project, or if the work on a project is terminated, for any reason, the Contractor must provide for a reasonable period of time after the expiration or termination of this project or contract, all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this contract, except for those terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by the contract. If there are no established contract rates, then the rate shall be mutually agreed upon. If the State terminates a project or this contract for cause, then the State will be entitled to offset the cost of paying the Contractor for the additional resources the Contractor utilized in providing transition assistance with any damages the State may have otherwise accrued as a result of said termination.

**28. CHOICE OF LAW AND VENUE**

This contract is governed by the laws of Montana. The parties agree that any litigation concerning this bid, proposal or subsequent contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana and each party shall pay its own costs and attorney fees. (See Mont. Code Ann. § 18-1-401.)

**29. SCOPE, AMENDMENT AND INTERPRETATION**

**29.1 Contract.** This contract consists of 11 numbered pages, any Attachments as required, RFP #SPB04-878P, as amended and the Contractor's RFP response as amended. In the case of dispute or ambiguity about the minimum levels of performance by the Contractor the order of precedence of document interpretation is in the same order.

**29.2 Entire Agreement.** These documents contain the entire agreement of the parties. Any enlargement, alteration or modification requires a written amendment signed by both parties.

**30. EXECUTION**

The parties through their authorized agents have executed this contract on the dates set out below.

**DEPARTMENT OF ADMINISTRATION  
STATE PROCUREMENT BUREAU  
PO BOX 200135  
HELENA MT 59620-0135**

**PBS&J  
1120 CEDAR  
MISSOULA MT 59802  
FEDERAL ID # 59-0896138**

BY: Penny Moon, Contracts Officer  
(Name/Title)

BY: \_\_\_\_\_  
(Name/Title)

BY: \_\_\_\_\_  
(Signature)

BY: \_\_\_\_\_  
(Signature)

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

## ATTACHMENT A CONTRACTOR'S RFP RESPONSE

### 2.0 INTRODUCTION

PBS&J is pleased to submit this Statement of Qualifications for the Montana Wetlands Legacy Projects RFP. Our qualifications for the services described in this RFP are unmatched in Montana. We have worked on all phases of the wetland mitigation process from landowner relations and project identification to delineation, engineering design, and long-term monitoring. We have been project leaders on stream restoration projects ranging from small private spring creeks to large river restoration projects (see **Section 6** for more details).

PBS&J has offices in four cities in Montana and is currently involved in monitoring wetland mitigation projects that are spread from Ekalaka to Kalispell and Plentywood to Dillon. We have assembled an experienced team of Montana scientists. Our team specializes in all aspects of stream and wetland restoration. Our experience and breadth of skills will allow for efficient and cost-effective implementation of projects for the State.

### 3.0 REFERENCES

**Table 1. References--Three Agency Contacts and Three Non-Governmental Contacts**

Reference Name	Affiliation	Email Address	Phone Number	Project Name(s)	Location	Services Provided	Dates	Members of Team Involved and Their Role
Tom Rue	Private Landowner	n/a	(406) 793-5050	Kleinschmidt Creek 1 & 2	Ovando	Stream & Wetland Restoration and Wetland Monitoring	7/97 to present (monitoring is ongoing)	<i>Paul Callahan</i> – project manager and landowner relations for stream and wetland restoration design and construction oversight <i>Martin Oakland</i> – construction oversight <i>Barry Dutton/Greg Howard</i> – revegetation design and implementation <i>Jeff Berglund/Greg Howard</i> – wetland monitoring
Roger Raynal	Tucker Crossing Ranch	n/a	(406) 961-5396	Wetland restoration and water rights	Victor	Survey and wetland design & water rights	6/98 to present (water rights tasks ongoing)	<i>Paul Callahan</i> – project manager and wetland designer <i>Karl Uhlig</i> – water rights task leader
Steve Brown	Garlington, Lohn and Robinson	<a href="mailto:srbrown@garlington.com">srbrown@garlington.com</a>	(406) 523-2558	Big Sky Wetland Restoration	Big Sky	Wetland delineation, restoration, & monitoring	6/02 to present	<i>Jeff Berglund/Barry Dutton/Cindy Hoschouer/Greg Howard and others</i> – wetland delineation and restoration <i>Paul Callahan/Martin Oakland</i> – stream restoration and construction oversight
Eric Reiland	FWP	<a href="mailto:ereiland@montana.com">ereiland@montana.com</a>	(406) 542-5520	Harvey Creek, Rock Creek, and others.	Upper Clark Fork Region	Stream and floodplain wetland restoration	6/98 to present	<i>Paul Callahan</i> – project manager – lead hydrologist <i>Dan March/Marjorie Wolfe</i> –engineers <i>Martin Oakland</i> – construction oversight <i>Greg Howard</i> – revegetation
Larry Urban	MDT	<a href="mailto:lurban@state.mt.us">lurban@state.mt.us</a>	(406) 444-6223	Kleinschmidt Creek, Statewide Wetland Monitoring, Lonepine, Alkali Lake, Murphy Ranch	Statewide	Stream and wetland restoration design, implementation & monitoring	10/99 to present	<i>Jeff Berglund</i> – Wetland monitoring project manager <i>Barry Dutton/Greg Howard/Lynn Bacon/Cindy Hoschouer and others</i> – wetland monitoring <i>Paul Callahan/Dan March</i> – stream and wetland restoration <i>John Westenberg/Karl Uhlig</i> – water rights
Tom Benedik	MDT	<a href="mailto:tbenedik@state.mt.us">tbenedik@state.mt.us</a>	(406) 544-3933	Camp Creek & East Fork Channel Reactivation	Sula	Stream and wetland restoration implementation	10/99 to present (monitoring is ongoing)	<i>Paul Callahan</i> – Project Manager – channel design <i>Martin Oakland</i> – construction oversight

## 4.0 COMPANY QUALIFICATIONS

The information in this Statement of Qualifications (SOQ) provides our details on our experience in all phases of stream restoration and wetland mitigation projects. Our skills include not only hydrology and wetland science but revegetation, hydraulic engineering, hydrogeology, water quality, water rights, and construction oversight.

PBS&J (LWC) is a firm of scientists and engineers with 45 employees in four Montana offices (Missoula, Kalispell, Helena, and Bozeman). We offer a diverse set of services with our roots in the analysis and restoration of natural resources. We are widely regarded as an outstanding natural resource consulting and engineering firm. Our technical skills and innovative thinking have enabled us to become a national leader in the construction of durable, cost-effective restoration projects that closely emulate natural systems. In addition, our consciousness of cost and our strong commitment to client services have helped us build a long list of enthusiastic clients with successful projects.

LWC is well-versed in the requirements and process associated with design and implementation of wetland mitigation and stream restoration projects in Montana. LWC is experienced in all phases of these projects, including preliminary site identification, landowner contact, water rights investigation, biological and physical baseline assessments, conceptual design, agency presentation and credit negotiation, final design, permitting, bid package preparation, construction oversight, and post-project monitoring. Our wetland scientists, hydrologists and engineers have successfully completed projects that involved the geomorphic analysis and restoration design on over 300 miles of streams and rivers and over 200 acres of wetlands in the Northern Rockies in the last 10 years. We have championed state-of-the-art techniques that have allowed for more natural designs and greater cost-effectiveness on restoration projects.

We are confident that our team will constitute a valuable technical asset to the State with respect to wetland and stream restoration design services. Distinguishing characteristics of our team include the following:

- The PBS&J Team has established positive working relationships and a high level of credibility with many state and federal agencies, local governments, conservation districts, Tribal governments, and watershed groups and is experienced in working with these entities to achieve wetland and stream restoration project objectives. Specifically, we have worked closely with the Corps of Engineers, DEQ, FWP, and numerous floodplain administrators and Conservation Districts throughout Montana.
- LWC has worked with a wide variety of private Montana landowners and stakeholders and is experienced at defining, addressing, and incorporating landowner goals with respect to natural resource restoration projects.
- LWC has more experience than any other firm in Montana managing the intricacies of wetland mitigation projects. Such details may involve water rights, water quality issues, conservation easements, credit and ratio negotiations, vegetation monitoring specifications and performance standards, and legal Clean Water Act interpretations.
- LWC has the following experience in the capacity of objectively reviewing other consultants' and agency projects:
  - Contract with FWP since 1995 to review 310 applications through which we are often called on for technical review of stream and wetland project designs
  - Member and Chairman of Future Fisheries Review Panel on which we reviewed many consultant applications and stream restoration designs.,
  - Contracted with the DNRC to review funding requests for their Renewable Grant and Loan Program
  - Contracted by MDT to monitor some 35 wetland mitigation projects throughout the state from 2001-2006. In this capacity we provide objective review of projects designed and constructed by agencies and other consultants, providing recommendations for improvement where necessary.
- LWC staff is well-suited to provide comprehensive wetland design services. The PBS&J Team includes some of the most respected wetland scientists, revegetation specialists, and hydrologists in the

intermountain region. Ancillary issues that that we have found to be critical on wetland restoration projects include water rights, soil composition, groundwater, and surface water control. We have specialists in all of these fields on our staff.

- PBS&J's project manager and technical coordinator, Jeff Berglund, will be located in Helena in proximity to FWP Headquarters. This will help ensure efficient communication and a solid strategic relationship. It will also facilitate effective project coordination and timely product delivery.
- The PBS&J Team is able to deliver services from four Montana office locations, thereby reducing travel times and costs.

**Table 2** illustrates, by specialty, the staff that may be utilized for this contract.

**Table 2. Number of Personnel in Technical Specialties that may be used on this Contract**

Specialty	Number of PBS&J Staff
Wetland Scientists	7
Hydrologists	5
Soils Scientist	1
Hydrogeologists	2
Water Quality Specialists	3
Licensed Hydraulic Engineers	2
Licensed Surveyor	1
Surveyor	1
Botanist	1
Revegetation Specialists	2
Water Rights Specialists	2

## 5.0 SUBCONTRACTOR EXPERIENCE

The PBS&J Team includes four subcontractors, each of whom are experienced in wetland and stream restoration. The following list includes a brief description of each company, their work capabilities and staffing qualifications.

### 5.1 Stream Works, Inc.

Richard Thumma and Becky Garland Thumma, owners of Stream Works, Inc., are based in Lincoln, Montana. Their construction company has more than 23 years experience in stream restoration, fish habitat improvement, wetlands enhancement, road construction, reclamation, bridge building and irrigation systems. Richard is an experienced excavator operator and has become a leader in this specialized field of stream restoration. Their clientele includes private individuals, nonprofit conservation organizations, and local, state and federal agencies.

- *Stream Restoration:* Stream Works, has restored many miles of streams and rivers throughout the northwest. Since 1988, they have completed more than 100 stream restoration, riparian and fish habitat improvement projects, including full stream restoration, alternative streambank stabilization, fish ladders, and vortex rock weirs. They understand the importance of the information gathered on hydrology, channel geometry, channel bed form, and surrounding land uses. In addition to their in-depth experience, the owners of Stream Works have completed Dave Rosgen's Applied Fluvial Geomorphology Seminar, in Pagosa Springs, Colo. and completed dozens of projects implementing Rosgen/type processes.
- *Fish and Aquatic Enhancement:* Following strict attention to design detail allows Stream Works to implement effective fish and aquatic habitat improvements that take into consideration the complex nature of aquatic conditions. The proper placement of pool and riffle sequences coupled with riparian vegetation, woody debris and overhead cover enhances spawning and rearing habitats within the restoration reach. A precisely constructed stream will exhibit a balanced range of hydraulic, geomorphic and biological parameters resulting in habitat diversity and stream stability.



- *Wetland Enhancement:* Building dikes and dams for wetlands, wetland enhancements and ponds has been a part of their job over the last 20 years. From a drained wetland, to an old oxbow in the landscape they have designed and constructed many wetland projects.

## 5.2 R.E. Miller and Sons, Inc.

R.E. Miller is a full-service excavating firm located in Dillon, Montana, serving western Montana for over 38 years. Early on, the company employed a qualified staff of dozer and dragline operators, completing numerous irrigation and water storage projects around the Dillon area. As the company grew, it expanded into road construction and site development and currently employs approximately 30 full time employees. The company continues to provide traditional excavating and construction services to both the private and public sector, with natural resource enhancement accounting for approximately sixty percent of their annual contracts. Resource enhancement work has included river restoration, fish habitat improvement, stream bank stabilization, pond construction, and wetland construction. The remainder of their workload is in irrigation, road construction, and site development.

- *Experienced Staff:* Working in and around water requires a high degree of ingenuity, adaptability, and experience. R.E. Miller and Sons has an outstanding reputation for providing quality construction and excavating services, and their strength lies in the skill and experience of their qualified staff, who are adaptable and flexible to the needs of their clients. The management staff continues to develop their knowledge of fluvial systems through professional symposia (Applied Fluvial Geomorphology - Wildland Hydrology Consultants and Living With Fluvial Systems - Dr. Donald R. Reichmuth) and independent research, and their operators have completed diverse projects related to fluvial systems and reclamation.
- *Project Experience:* The company has completed the construction of over fifty ponds, several miles of stabilization on the Madison, Beaverhead, Ruby, Jefferson, Big Hole, Red Rock, and Gallatin Rivers, and trout habitat structures and improvements throughout southwestern Montana. They have also completed natural resource enhancement projects in Western Montana, Northern Idaho, and New Mexico. The company has completed projects with Inter-Fluve, Inc., Joe Urbani and Associates, Kingfisher Inc., PBS&J, and Donald R. Reichmuth.
- *Capabilities:* R.E. Miller has worked with a variety of stream forms and designed channels, and have constructed spawning channels, bridges, fish traps, fish screens, and waterfowl habitat structures. They have recently purchased two track trucks which allow them to complete river, pond, and wetland work with less impact to vegetation. The company also specializes in seeding and landscaping equipment, and numerous hand tools specifically designed for the intricacies of riparian construction. They have developed innovative techniques and specialized equipment for the installation and maintenance of erosion control fabric. In addition, they have installed a variety of pond liners and geotextiles. The diverse nature of their construction services has enabled them to develop skills not commonly found in the industry. Their operators combine experience with innovation when completing enhancement work.

## 5.3 Rowe Excavation

Kelly Rowe, the owner of Rowe Excavation has been restoring streams and wetlands for 15 years. He started as an excavator operator and learned the subtleties of reconstructing natural systems. Since that time he has grown his business into one with seven full-time employees and over 2 million dollars worth of equipment. Rowe Excavation's specialty has always been stream and wetland restoration. The equipment that is utilized by the company is geared towards this kind of work. This includes 300-class excavators with thumbs, low ground-pressure bulldozers and tracked dump trucks.

## 5.4 Bitterroot Restoration, Inc (BRI)

BRI was founded in 1986 to provide comprehensive restoration services to managers of disturbed lands. They constructed their first greenhouse to propagate site-adapted native plants from seed collected in eastern Montana at Peabody Western's Big Sky and Western Energy's Rosebud Mines. By 1991, they were providing a full range of services, including restoration planning, native plant propagation, and implementation to mining



companies, the National Park Service, Federal Highway Administration, and other public and private land managers.

Their staff includes experienced professionals from the fields of plant and restoration ecology, riparian and wetland ecology, forestry, botany, plant physiology, resource conservation, range management, horticulture, recreation management, landscape architecture, soil science, biology, wildlife biology, GIS, natural resource database design and management, and geology. Their team applies their understanding of ecological principles and knowledge of individual site characteristics to guide a client's restoration efforts. This ecological approach leads to restoration of natural processes and self-sustaining plant communities that, in turn, benefits the local community and reduces maintenance costs for their clients. Services provided include:

- Site Assessment
- Design and Planning
- Plant Propagation
- Restoration Implementation
- Research and Development
- Natural Resource Data Management

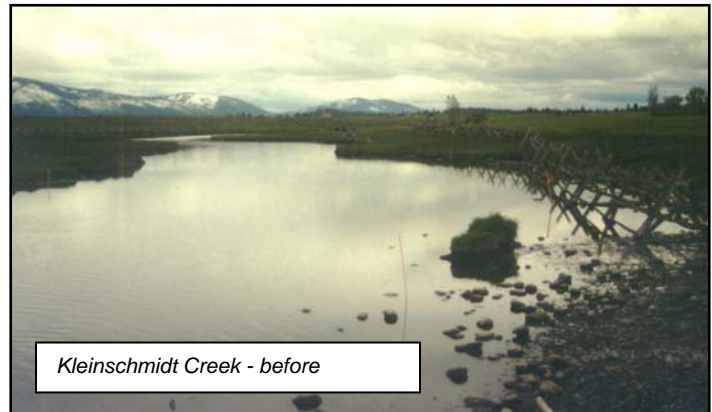
## 6.0 PREVIOUS PROJECTS

The following seven projects are similar in scope to the work envisioned under this contract. They are being highlighted to illustrate our ability to perform all tasks associated with the design, permitting, and restoration of fluvial and wetland systems. All projects were constructed within the last three years with the exception of the Tucker Crossing Ranch, which was constructed four years ago. **Table 3** contains descriptions of additional representative projects (both agency and private clients) either currently in progress or completed in the last three years by PBS&J.

### 6.1 Kleinschmidt Creek Stream and Wetland Restoration

PBS&J has completed three separate restoration projects on Kleinschmidt Creek near Ovando, Montana. The first two phases took place in 1998 and 2000 respectively. The last (and largest) phase was completed in 2001 with monitoring continuing until 2006.

PBS&J staff identified the project as a potential for mitigation, negotiated with the landowner and facilitated a complete mitigation agreement between the Corps of Engineers and MDT. The planning steps for this project included:



- Extensive negotiations with the Corps over performance standards and credit ratios. The negotiations hinged on the definition of the phrase “substantially degraded” in the Code of Federal Regulations that guide the credit process.
- Extensive negotiations with the landowner and MDT on easement language.
- Extensive negotiations with FWP on

Section 6 certification to allow the project to avoid lengthy review under the Endangered Species Act.

- 404, 310, and 318 Permitting.

The actual work involved over two miles of channel restoration and fish habitat enhancement, over 20 acres of restored or enhanced wetlands, and complete revegetation of the site. The pre-existing creek was overwidened and had become a major source of whirling-disease-carrying tubifex worms to the Blackfoot River system. After the project was completed, habitat for tubifex worms nearly disappeared and the creek has become an important spawning stream for brown trout.

## 6.2 Camp Creek Stream and Wetland Restoration

The Camp Creek project involved over three years of planning, landowner negotiations, and design. PBS&J completed the design on schedule and on budget in the spring of 2001. The project was constructed under contract with MDT in 2000 and 2001.



Over two miles of the Camp Creek channel and floodplain was reconstructed as part of this project. PBS&J was responsible for all phases of this project design including:

- Survey;
- Certified engineered design;
- Bid-read construction plans;
- Natural revegetation design;
- Construction specifications;
- Water rights permitting;
- Support to MDT staff for 404, 124, and floodplain permits;
- Support to MDT staff for stormwater permit;
- Support to MDT staff for construction easement; and
- Project implementation oversight.



### 6.3 Harvey Creek Stream and Wetland Restoration Project

The Harvey Creek project was completed for FWP in 2003. It involved a 1,500 foot reach that had been previously straightened. The primary objective was to improve spawning for Clark Fork River trout. Several acres of floodplain wetland, however, were restored as a result of the new meandering channel. PBS&J provided all survey, hydraulic, and revegetation design services. Our staff also conducted all construction oversight and revegetation implementation.





## 6.4 East Fork Bitterroot River Channel and Floodplain Restoration

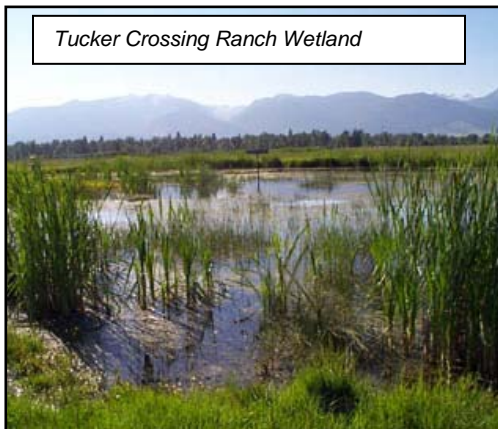


As mitigation for fisheries impacts associated with the Sula North-South highway project, the Montana Department of Transportation reactivated a meander of the East Fork Bitterroot River. PBS&J's team of hydrologists, engineers, and revegetation experts developed comprehensive plans and specifications for the restoration of this river reach.



To complete this design with an engineer's certification while at the same time optimizing fish habitat and floodplain function, PBS&J utilized innovative modeling and design techniques that fully incorporated quantitative geomorphic relationships while allowing designers the freedom to make the most of their intuitive understanding of aquatic habitat and hydraulics. This project was completed under extreme time constraints and was submitted under budget. PBS&J staff supplied revegetation plans, bid-ready plans and specifications and construction oversight.

## 6.5 Tucker Crossing Ranch Wetland Restoration



The objective of this project was to enhance waterfowl habitat on a private ranch. The end result was approximately 15 acres of restored wetlands. PBS&J performed a GPS topographic survey and completed all design and water rights permitting for the project.

The revegetation design has resulted in rapid regrowth of native vegetation providing habitat for waterfowl and numerous species of furbearers.

## 6.6 Rattlesnake Creek Stream Restoration and Flood Control Project

PBS&J completed a topographic survey, channel design, and flood hazard reduction design for the City of Missoula within the boundary of Greenough Park. Perhaps the most challenging aspect of this project was the public scrutiny and concern of the proposed activities. PBS&J, under contract with the City of Missoula, conducted several public meetings and participated in a public relations media campaign to address public concern over flood issues related to the proposed restoration project.



The project is complete and has been highly praised by City officials and local residents.



The

project involves the breaching of a system of levees within the City of Missoula to reactivate portions of the Rattlesnake Creek floodplain within Greenough Park. Associated with this is a channel relocation and restoration, and extensive native revegetation. Our staff of hydrologists, engineers, and vegetation experts completed the design and bid documents on time and under budget.



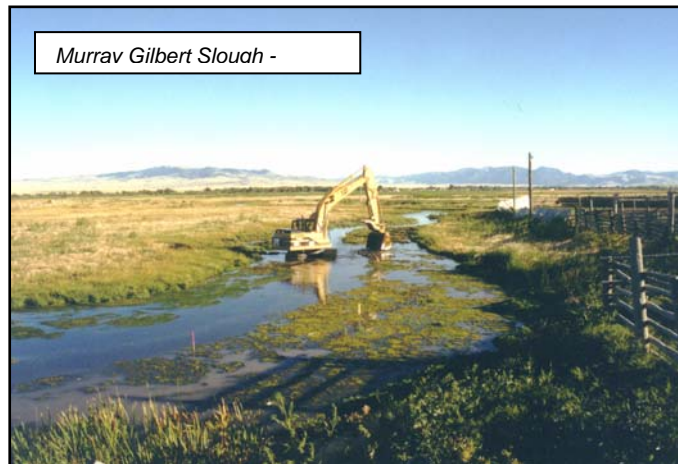
## 6.7 Murray Gilbert Slough Restoration

This project involved the restoration of 1,500 feet of a spring creek that is tributary to the Beaverhead River near Dillon. The project was implemented in 1999 and has resulted in over 40 acres of improved wetland conditions in areas surrounding the creek.

*Murray Gilbert Slough - after*



*Murray Gilbert Slough -*





**Table 3: PBS&J - Additional Projects Similar to Work Described in this RFP**

Project Name	Project Description	Client	Client Address and Telephone
Trout Creek Stream and Wetland Restoration Project 1998 to 2001 (planning ongoing)	This project involves the restoration of over three miles of Trout Creek just west of Philipsburg, Montana. The design has been completed with extensive interaction with the Natural Resources Conservation Service the Granite County Conservation District, and Montana Fish Wildlife and Parks. PBS&J completed all phases of design including GPS topographic survey, sediment transport and channel stability modeling using HEC-RAS, and revegetation design. Complete construction plans and specifications were completed with review from the NRCS. Revegetation plans encompass 120 acres of wetlands and riparian areas.	Eric Reiland FWP	3201 Spurgin Road Missoula, MT 59804 Tel: 406-542-5520
Lonepine Wetland Mitigation Project 2002 – Present	LWC is conducting all phases of wetland mitigation design at a proposed 80-acre MDT mitigation site on the Flathead Indian Reservation in Sanders County, Montana. Tasks include agency coordination / credit negotiation, baseline wetland delineation and functional assessment, rare plant survey, soil sampling, groundwater monitoring, wetland mitigation and stream restoration design, MDT-compatible plan and specification production, environmental documentation, and permitting.	Tim Conway MDT	Montana DOT Consultant Design PO Box 201001 Helena, MT 59620 406-444-7292
Milk River Ranch WRP 2003 – Present	LWC is assisting the landowner with development of a WRP project on approximately 200-300 acres in Phillips County, Montana. Tasks include baseline wetland delineation, agency coordination, and restoration design input.	Mike Kinney Milk River Ranch	P.O. Box 935 Otis Orchards, WA 99027 425-418-7396
Alkali Lake MDT Wetland Restoration Project 2003 – Present	LWC prepared a feasibility study for MDT with respect to five stream restoration projects and a 200-acre historic lakebed wetland restoration project (Alkali Lake) on the Blackfeet Indian Reservation in Pondera County, Montana for mitigation purposes. Tasks included baseline delineation, functional assessment, and extensive agency coordination / potential credit negotiation with the Tribe, BIA, Corps, USFWS, and EPA. LWC is currently embarking on a full design of the Alkali Lake project that includes MDT-compatible plan and specification production.	Bonnie Steg MDT	Montana DOT Environmental Services 2701 Prospect Ave PO Box 201001 Helena, MT 59620 406-444-9205
Creston Fish Hatchery Wetland Mitigation Project 2003 – Present	LWC prepared a wetland mitigation plan for impacts associated with dam expansion at the USFWS Creston National Fish Hatchery in Creston, Montana. This project involved innovative negotiation with the Corps that allowed stabilization of a groundwater-fed slump as wetland mitigation. The slump was resulting in appreciable sedimentation in adjacent high-quality wetlands, which will be corrected by this project. Tasks included a feasibility study at several mitigation sites, agency coordination / credit negotiation, groundwater monitoring, and plan and specification production.	Mark Maskill Creston National Fish Hatchery	780 Creston Hatchery Rd. Kalispell, MT 59901 406-758-6870
Yellowstone Mountain Club Wetland Restoration Project 2002 – Present	LWC has delineated and mapped wetlands on several thousand acres of largely forested mountainous terrain relative to a private ski area and golf course development project in Madison County, Montana. This work involved the use, management, and coordination of a 6-8 person wetland field crew, as well as a survey team and GIS data coordination and map production. Additionally, LWC is preparing wetland and stream restoration / mitigation plans at some 45 individual locations throughout the area, conducting groundwater monitoring at these and reference locations, providing project oversight with respect to restoration activities as they are implemented, and is conducting monitoring to ensure the efficacy of these restoration efforts.	Steve Brown YMC	Garlington, Lohn & Robinson 199 W. Pine Missoula, MT 59802 406-523-2500

**Table 3. (continued) – PBS&J – Additional Projects Similar to Work Described in this RFP**

Project Name	Project Description	Client	Client Address and Telephone
Murphy Ranch Wetland Restoration Project 2003 – Present	LWC is assisting with development of a design for an MDT wetland mitigation project in MDT's Butte District. Project tasks include groundwater monitoring, delineation of existing wetlands, mapping of all vegetation communities, design of stream restoration and wetland restoration and creation features, and credit negotiation.	Larry Urban MDT	Montana DOT PO Box 201001 Helena, MT 59620 406-444-6224
Tucker Crossing Mitigation Functional Assessment 2001-2002	LWC conducted a final functional assessment at the MDT Tucker Crossing Wetland Mitigation Site near Victor, Montana to verify fulfillment of functional performance standards. The project involved field data collection and analysis, presentation of complicated numerical data, and extensive coordination with the Corps of Engineers. Project attributes were successfully demonstrated and credits were allocated to the landowner and MDT.	Roger and Wendy Raynal Tucker Crossing Ranch	Roger Raynal PO Box 957 Corvallis, MT 59828 406-961-5396
Rock Creek Ranch Wetland Mitigation Project 2002 – Present	LWC is conducting all phases of wetland mitigation design at a proposed 120-acre MDT mitigation site in Valley County, Montana. Tasks include extensive agency coordination / credit negotiation, baseline wetland delineation and functional assessment, wetland mitigation and stream restoration design, plan production, construction oversight, planting, and permitting.	Mike Kinney Rock Creek Lands	P.O. Box 935 Otis Orchards, WA 99027 425-418-7396
MDT Statewide Wetland Mitigation Monitoring, Term I 2001 – 2003	Land &Water performed three consecutive years of statewide multi-season, multi-year monitoring effort at 30 MDT wetland mitigation sites throughout Montana. Tasks include extensive agency coordination; monitoring strategy development; wetland delineation; wetland/open water aquatic habitat boundary mapping; vegetation community mapping; vegetation transect sampling; soils data collection; hydrology data collection; assessment of bird and general wildlife use; birdhouse mapping, photograph point data collection; macro-invertebrate sampling and analysis; GPS data points collection and mapping; wetland functional assessment; examination of dike and control structures; corrective measures recommendations, annual report production; and presentation of results before the Montana Interagency Wetlands Group. MDT wetland mitigation sites monitored to date include Batavia, Creston, Lawrence Park, Hoskins Landing, Peterson Ranch, Camp Creek, Beaverhead Ranch, Brown's Gulch, Cow Coulee, Rey Creek, Ringling-Galt, South Fork Smith River, Big Sandy, Jack Johnson, Musgrave Lake, Perry Ranch, American Colloid, Circle, Crackerbox Creek, Fourchette Creek, Plentywood, Ridgeway, Vida, Wigeon Reservoir, Lame Deer, Big Spring Creek, Lavina/Ryegate, Roundup Lagoons, Stillwater River, Vince Ames Ranch, and Wyola-Sunlight Ranch. Both MDT and LWC have received accolades from regulatory agencies for the quality of fieldwork and reporting with respect to this large-scale monitoring effort.	Larry Urban MDT	Montana DOT Environmental Services 2701 Prospect Ave PO Box 201001 Helena, MT 59620 406-444-6224
MDT Statewide Wetland Mitigation Monitoring, Term II 2004 – 2006	Land &Water was contracted for a second three-year term of statewide multi-season, multi-year monitoring effort at 35 MDT wetland mitigation sites throughout Montana. Tasks include extensive agency coordination; monitoring strategy development; wetland delineation; wetland/open water aquatic habitat boundary mapping; vegetation community mapping; vegetation transect sampling; soils data collection; hydrology data collection; assessment of bird and general wildlife use; birdhouse mapping, photograph point data collection; macro-invertebrate sampling and analysis; GPS data points collection and mapping; wetland functional assessment; examination of dike and control structures; corrective measures recommendations, annual report production; and presentation of results before the Montana Interagency Wetlands Group.	Larry Urban MDT	Montana DOT Environmental Services 2701 Prospect Ave PO Box 201001 Helena, MT 59620 406-444-6224



## 7.0 STAFF QUALIFICATIONS

This section briefly describes the qualification of six key individuals on the PBS&J project team. We have chosen to highlight these six as a demonstration of the quality of our personnel and the excellent fit for the work described in this RFP. Numerous other individuals may also work on this project. For more detailed information about the six highlighted individuals and the additional team members, please see staff resumes arranged alphabetically in **Appendix A**.

**Table 4. Summary of Key Team Members**

Key Team Member	Proposed Role	Years Professional Experience	Years Experience on Projects similar to this RFP
Jeff Berglund	Primary Point of Contact – Lead Wetland Scientist, Project Manager	16	12
Paul Callahan	Lead Hydrologist – Project Manager	11	11
Barry Dutton	Wetland Scientist/Soil Scientist	25	14
Cindy Hoschouer	Lead Revegetation Specialist	16	16
Greg Howard	Revegetation Specialist	7	7
Dan March	Lead Hydraulic Engineer	11	6

**Jeff Berglund** will be the Project Manager and contact person for this contract. Jeff is a Principal Wetland Scientist/Wildlife Biologist and manages the PBS&J office in Helena. Jeff is a Certified Wildlife Biologist and Certified Professional Wetland Scientist with over 16 years of federal, state, and private sector experience in eight western states. Jeff has conducted hundreds of jurisdictional wetland delineations and functional assessments, has been involved in the identification and design of numerous wetland mitigation projects, and has extensive wetland mitigation monitoring project experience. In the past three years, Jeff has played key roles in several mitigation design projects, including the Lonepine (MDT), Alkali Lake (MDT), Murphy Ranch (MDT), Rock Creek Ranch (MDT/private), Rock Creek Ranch WRP (private), Milk River WRP (private), Camp Creek (MDT), Yellowstone Mountain Club (private), and Creston Hatchery (USFWS) restoration/mitigation projects. He also managed multi-season, 3-year monitoring efforts at over 30 MDT wetland mitigation sites throughout Montana from 2001-2003 (and will continue 2004-2006), which has provided unique insight regarding successful and unsuccessful restoration techniques and features in Montana. Additionally, Jeff authored the Montana wetland functional assessment method for MDT and the Montana Interagency Wetland Group, now in use throughout Montana and in several other states.

Jeff has received specialized training in wetland delineation, wetland mitigation design, functional assessment, and fluvial geomorphology (Rosgen courses), and has also taught courses in functional assessment. He has maintained excellent working relationships with state, federal, and Tribal resource personnel throughout Montana.

**Paul Callahan** will be the Lead Hydrologist and a Project Manager for this project. Paul is a principal of PBS&J and has 11 years of experience in stream hydrology in Montana. Paul has been the Manager of the Surface Water Department at PBS&J for six years. He is the lead scientist for stream and wetland restoration projects and has personally designed and implemented over three dozen projects that have stabilized and restored streams, rivers and wetlands in Montana, Idaho and Wyoming. These projects have ranged from small spring creeks to larger rivers such as the Bitterroot and Clark Fork and wetland projects as large as 40 acres. In the capacity of lead hydrologist, Paul has applied quantitative hydrological and hydraulic calculations for flow and sediment transport.

Paul has received specialized training in fluvial geomorphology (Rosgen courses) and sediment transport (workshop with Waterways Experiment Station). He has demonstrated a consistent ability to provide excellent customer service, keep projects organized and under budget, and meet challenging deadlines. Paul has been involved in stream and wetland restoration projects for 11 years. Paul has personally negotiated easement language with landowners and performance criteria with the Corps of Engineers for wetland mitigation projects.

**Barry Dutton** Barry is a Senior Soil Scientist and the founding Principal of PBS&J. Barry manages the Soil and Vegetation department. He completed B.S. and M.S. degrees in Forestry and Soils from the University of Montana and is a Certified Professional Soil Scientist. His projects include soil science, vegetation, forestry, agriculture, wetlands, range, weeds, conservation easements, NEPA/MEPA impact assessments, and expert witness testimony. Barry has been working on wetland projects for 14 years.

Barry has pioneered new methods for collecting and presenting soil resource information including expert system development to infer soils. He has mapped soils throughout the western United States and knows the regional soils, vegetation, geology, hydrology and land uses. Barry has developed state-of-the-art programs on irrigation water conservation, integrated crop management and weed management for state, federal, and private clients. He has helped define and evaluate best management practices for forestry and animal waste operations in Montana. Barry has provided environmental impacts analysis for numerous projects including pipelines, ski resorts, mines and developments.

Barry has received specialized training in the identification of wetland plants and in soils considerations for wetland restoration projects.

**Cindy Hoschauer** Cindy has been a Vegetation and Wetland Specialist in Montana for over 16 years. She has expertise in management and implementation of revegetation designs, including riparian restoration, revegetation of contaminated soil, wetland enhancement and land reclamation projects. She has conducted extensive jurisdictional wetland delineations throughout the Intermountain West, including document preparation, 404 permitting, agency negotiations, preparation of mitigation plans and project design refinement. She also has considerable experience involving a wide range of mining related projects including risk assessments, reclamation for land application treatment of tailings pond water; and state-directed remedial remediation of a waste rock dump. Additionally, she has conducted numerous ecological resource inventories, TES surveys, biological resource surveys and reports, and has managed EA projects and categorical exclusions in compliance with NEPA and MEPA guidelines. Over the past 12 years, Cindy has provided technical assistance in the remedial investigation and feasibility studies for Silver Bow Creek and the Upper Clark Fork River basin.

**Greg Howard** Greg is a Botanical Specialist working with PBS&J's Resource Analysis department. Greg received his B.A. in Botanical Sciences from the University of Montana in 1995. Since that time Greg has been involved in wetland and upland revegetation projects. Greg performs wetland delineations, native plant revegetation, vegetation analysis, botanical identification, classification and vegetation mapping for PBS&J.

While with PBS&J, Greg has worked on several large- scale wetland delineation, mitigation, and restoration projects in higher elevation wetlands. Greg contributes with monitoring of Montana Department of Transportation wetland mitigation sites, and utilizes his vegetation- based skills to design vegetation and weed management plans. His previous background with native plant restoration has been utilized on many projects needing vegetation design, streambank enhancement, and plant installation.

Prior to PBS&J, Greg spent 5 years developing his revegetation skills working with native plant ecosystems for Bitterroot Restoration, Inc. While with Bitterroot Restoration, Greg worked as a botanist and consulting technician. Greg's job duties included botanical ID, vegetation analysis, mapping, and restoration of native plant communities. He examined and restored many different native plant communities with clients ranging from National Parks to mines.

**Dan March** Dan is a Hydraulic/Environmental Engineer with PBS&J. He holds a M.S. in Hydraulic Engineering from Colorado State University and a B.S. in Civil Engineering from Montana State University.

Dan has eleven years of administrative and consulting experience with governmental and private entities. He has strong applied skills in engineering design, with extensive experience in solving hydrologic and hydraulic analysis/design problems. He also has a comprehensive ability in environmental site assessments and remediation. Computer software capabilities for modeling and design include AutoCAD, Softdesk, TR-55, TR-20, HEC-2, SAM and PLUME. Dan's education and design/construction experience includes: hydrological and hydraulic analysis, stream bank stabilization, stream restoration, erosion control measures,

flood control measures, sediment modeling, sediment ponds, stormwater conveyance systems, landfill design and monitoring, hazardous waste investigations, fuel spill investigation and remediation, CECRA, CERCLA, RCRA, RI/FS, and work plan and report preparation.

Dan has received specialized training in open channel flow, fluvial geomorphology, sediment transport, and stream restoration through Rosgen courses and through his graduate schooling.

In addition, we have other highly qualified individuals who may contribute depending on project requirements and location. Some of these individuals are listed below. Full resumes for these individuals can be found in **Appendix A**.

- Marjorie Wolfe – Engineer (P.E.)
- Martin Oakland – Hydrologist – Construction Foreman
- Lynn Bacon – Wetland Scientist
- Mark Traxler – Wetland Scientist/Biologist
- Andrea Pipp – Botanist – Wetland Scientist
- John Babcock – Hydrologic Technician
- Sarah Day – Engineer
- Jeff Dunn – Hydrologic Technician
- Laura Lundquist – Hydrologic Technician
- Roger Noble – Hydrogeologist (P.G.)
- Roger Austin – Surveyor (P.L.S.)
- John Westenberg – Senior Water Rights Analyst
- Karl Uhlig – Senior Water Rights Analyst
- John DeArment – Water Quality and Wetland Scientist
- Gary Ingman – Water Quality specialist
- Judy Rosenbaum – Surveyor, CAD operator
- Brandi Steinbach – GIS/CAD operator

LWC maintains excellent working relationships with numerous reputable civil engineering firms and would be able to team with such a firm to address design format requirements should the need arise on a particular project. Our experience, however, has been that the engineering required for nearly all wetland and stream projects can be addressed by our in-house hydraulic engineers. PBS&J has three licensed engineers with extensive experience in the design of streams and rivers, ponds, and water control structures.

## APPENDIX A: STANDARD TERMS AND CONDITIONS

**By submitting a response to this invitation for bid, request for proposal, limited solicitation, or acceptance of a contract, the vendor agrees to acceptance of the following Standard Terms and Conditions and any other provisions that are specific to this solicitation or contract.**

**ACCEPTANCE/REJECTION OF BIDS, PROPOSALS, OR LIMITED SOLICITATION RESPONSES:** The State reserves the right to accept or reject any or all bids, proposals, or limited solicitation responses, wholly or in part, and to make awards in any manner deemed in the best interest of the State. Bids, proposals, and limited solicitation responses will be firm for 30 days, unless stated otherwise in the text of the invitation for bid, request for proposal, or limited solicitation.

**ACCESS AND RETENTION OF RECORDS:** The contractor agrees to provide the department, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance (Mont. Code Ann. § 18-1-118). The contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of three years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

**ALTERATION OF SOLICITATION DOCUMENT:** In the event of inconsistencies or contradictions between language contained in the State's solicitation document and a vendor's response, the language contained in the State's original solicitation document will prevail. Intentional manipulation and/or alteration of solicitation document language will result in the vendor's disqualification and possible debarment.

**ASSIGNMENT, TRANSFER AND SUBCONTRACTING:** The contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the department. (Mont. Code Ann. § 18-4-141.)

**AUTHORITY:** The following bid, request for proposal, limited solicitation, or contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

**COMPLIANCE WITH LAWS:** The contractor must, in performance of work under the contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

**CONFORMANCE WITH CONTRACT:** No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without prior written consent of the State Procurement Bureau. Supplies delivered which do not conform to the contract terms, conditions, and specifications may be rejected and returned at the contractor's expense.

**DEBARMENT:** The contractor certifies, by submitting this bid or proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by the State.

**DISABILITY ACCOMMODATIONS:** The State of Montana does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals, who need aids, alternative document formats, or services for effective communications or other disability-related accommodations in the programs and services offered, are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

**FACSIMILE RESPONSES:** Facsimile responses will be accepted for invitations for bids, small purchases or limited solicitations ONLY if they are completely received by the State Procurement Bureau prior to the time set for receipt. Bids, or portions thereof, received after the due time will not be considered. Facsimile responses to requests for proposals are ONLY accepted on an exception basis with prior approval of the procurement officer.

**FAILURE TO HONOR BID/PROPOSAL:** If a bidder/offeror to whom a contract is awarded refuses to accept the award (PO/contract) or, fails to deliver in accordance with the contract terms and conditions, the department may, in its discretion, suspend the bidder/offeror for a period of time from entering into any contracts with the State of Montana.

**FORCE MAJEURE:** Neither party shall be responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the non-performing party, so long as such party is using its best efforts to remedy such failure or delays.

**HOLD HARMLESS/INDEMNIFICATION:** The contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

**LATE BIDS AND PROPOSALS:** Regardless of cause, late bids and proposals will not be accepted and will automatically be disqualified from further consideration. It shall be solely the vendor's risk to assure delivery at the designated office by the designated time. Late bids and proposals will not be opened and may be returned to the vendor at the expense of the vendor or destroyed if requested.

**PAYMENT TERM:** All payment terms will be computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted in the solicitation document, the State is allowed 30 days to pay such invoices. All contractors may be required to provide banking information at the time of contract execution in order to facilitate State electronic funds transfer payments.

**RECIPROCAL PREFERENCE:** The State of Montana applies a reciprocal preference against a vendor submitting a bid from a state or country that grants a residency preference to its resident businesses. A reciprocal preference is only applied to an invitation for bid for supplies or an invitation for bid for nonconstruction services for public works as defined in section 18-2-401(9), MCA, and then only if federal funds are not involved. For a list of states that grant resident preference, see <http://www.discoveringmontana.com/doa/gsd/css/Resources/ReciprocalPreference.asp>.

**REFERENCE TO CONTRACT:** The contract or purchase order number MUST appear on all invoices, packing lists, packages and correspondence pertaining to the contract.

**REGISTRATION WITH THE SECRETARY OF STATE:** Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with sections 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://www.sos.state.mt.us>.

**SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually dependent.

**SHIPPING:** Supplies shall be shipped prepaid, F.O.B. Destination, unless the contract specifies otherwise.

**SOLICITATION DOCUMENT EXAMINATION:** Vendors shall promptly notify the State of any ambiguity, inconsistency, or error, which they may discover upon examination of a solicitation document.

**TAX EXEMPTION:** The State of Montana is exempt from Federal Excise Taxes (#81-0302402).

**TECHNOLOGY ACCESS FOR BLIND OR VISUALLY IMPAIRED:** Contractor acknowledges that no state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (Mont. Code Ann. § 18-5-603.) Contact the State Procurement Bureau at (406) 444-2575 for more information concerning nonvisual access standards.

**TERMINATION OF CONTRACT:** Unless otherwise stated, the State may, by written notice to the contractor, terminate the contract in whole or in part at any time the contractor fails to perform the contract.

**UNAVAILABILITY OF FUNDING:** The contracting agency, at its sole discretion, may terminate or reduce the scope of the contract if available funding is reduced for any reason. (Mont. Code Ann. § 18-4-313 (3).)

**U.S. FUNDS:** All prices and payments must be in U.S. dollars.

**VENUE:** This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this bid, request for proposal, limited solicitation, or subsequent contract, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Mont. Code Ann. § 18-1-401.)

**WARRANTIES:** The contractor warrants that items offered will conform to the specifications requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship and free from defect. Items offered must be new and unused and of the latest model or manufacture, unless otherwise specified by the State. They shall be equal in quality and performance to those indicated herein. Descriptions used herein are specified solely for the purpose of indicating standards of quality, performance and/or use desired. Exceptions will be rejected.

---

Revised 11/03